available on just, reasonable, and nondiscriminatory terms and conditions in accord with Section 251(c)(6) of the Act and the FCC's implementing rules. 18/ Similarly, Qwest has a concrete and specific legal obligation to provide collocation as referenced in its SGAT and its approved interconnection agreements with CLECs in Arizona. *See Qwest 9-State Order* ¶ 314 n.1131 ("We also conclude that Qwest provides legally binding terms and conditions for collocation in its interconnection agreements and SGATs."); *Qwest 3-State Order* ¶ 86 n.284 (same); *Qwest Minnesota Order* ¶ 50 n.171 (same); Bumgarner Collocation Decl. ¶ 14. Qwest provides commercial volumes of collocation, in a high-quality manner that satisfies established standards for collocation applications and installations. Bumgarner Collocation Decl. ¶ 36. Qwest's processes, procedures, capabilities and performance, therefore, afford efficient competitors a meaningful opportunity to compete.

As the Commission has recognized, all forms of collocation are available to CLECs throughout Qwest's region. *See Qwest 9-State Order* ¶ 314; *Qwest 3-State Order* ¶ 86; *Qwest Minnesota Order* ¶ 50; Bumgarner Collocation Decl. ¶ 20. Physical collocation is available at all Qwest premises that house network facilities, subject only to space limitations. *Id.* Qwest makes available caged, shared caged, cageless, Interconnection Distribution Frame ("ICDF"), remote, common-area-splitter, adjacent and virtual collocation, all at the CLEC's

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18/ *Qwest 9-State Order* ¶ 314 & Appendix D, ¶ 20; *Virginia 271 Order*, Appendix C, ¶ 20; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15782-15811, ¶¶ 555-617 (adopting 47 C.F.R. §§ 51.321, 51.323); *Advanced Services Order*, 13 FCC Rcd 24011 (1998); *aff'd in part, rev'd in part sub nom., GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000); *on recon., Advanced Services Reconsideration Order*, 15 FCC Rcd 17806 (2000), *on remand, Advanced Services Fourth Report and Order*, 16 FCC Rcd 15435, *aff'd sub nom., Verizon Tel. Cos. v. FCC*, 292 F.3d 903 (D.C. Cir. June 18, 2002), *recon. granted in part Advanced Services Order on Reconsideration of Fourth Report and Order, and Fifth Report and Order*; *see also Collocation Waiver Order*, 16 FCC Rcd 3748 (2000).

option. *Id.* ¶ 18. 19/ Consistent with 47 C.F.R. § 51.323(c), Qwest allows CLECs to collocate any equipment necessary for interconnection or access to UNEs, regardless of whether it also performs a switching function, provides enhanced services capabilities, or offers other functions. *Id.* ¶ 19; SGAT § 8.2.1.2 *et seq.*

Qwest offers collocation on a first-come, first-served basis, Bumgarner Collocation Decl. ¶ 46; SGAT § 8.2.3.2, and allows CLECs to reserve collocation space for various periods (depending upon the type of equipment to be collocated). Bumgarner Collocation Decl. ¶ 30; SGAT §§ 8.4.1.7 *et seq.* 20/ If space limitations preclude physical collocation, Qwest makes available adjacent collocation in existing structures to the extent technically feasible. Bumgarner Collocation Decl. ¶ 64; SGAT § 8.1.1.6. If no existing adjacent structure space is available, Qwest permits CLECs to construct or otherwise procure an adjacent structure on property owned or controlled by Qwest, subject only to reasonable design, safety, and maintenance requirements. *Id.* If space later becomes available in the Qwest premises, CLECs are permitted, though not required, to relocate equipment to that interior space. Bumgarner Collocation Decl. ¶ 67; SGAT § 8.2.6.5.

As required by the FCC, Qwest maintains a publicly available document posted for viewing on the Internet that indicates all premises known to be full, updated within ten

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19/ SGAT §§ 8.1.1.2 & 8.2.3 *et seq.* (caged physical); 8.1.1.4 & 8.2.3 *et seq.* (shared caged physical); 8.1.1.3 & 8.2.3 *et seq.* (cageless physical); 8.1.1.5 & 8.2.5 *et seq.* (ICDF collocation); 8.1.1.7 (common area splitter collocation); 8.1.1.8, 8.2.6 *et seq.*, 8.2.7 *et seq.* & 8.4.6 *et seq.* (remote collocation); 8.1.1.6, 8.2.6 *et seq.*, & 8.4.6 *et seq.* (adjacent collocation).

Although the Arizona Commission noted that the FCC has not required ILECs to make shared cageless collocation available, it held that Qwest should revise its SGAT to allow for the subleasing of cageless collocation space. Bumgarner Collocation Decl. ¶ 44. Qwest has revised its SGAT accordingly. *Id.*; SGAT § 8.1.1.3.

20/ The space reservation fee in Arizona is 25% of nonrecurring charges. Bumgarner Collocation Decl. ¶ 30 n. 49; SGAT § 8.4.1.7.3. The Arizona Commission held that upon

calendar days of the date Qwest learns a premises is out of physical space for collocation or that space has become available. Bumgarner Collocation Decl. ¶¶ 41, 76; SGAT § 8.2.1.13. 21/ Qwest has inventoried all its central office premises and, to the extent any required information was not already posted on the website, that information was added. Bumgarner Collocation Decl. ¶ 76. Qwest also maintains and makes available an inventory report with the locations of remote premises and the customer addresses served by them. Bumgarner Collocation Decl. ¶ 61 n.108; SGAT § 8.2.1.9.2.

Qwest provides virtual collocation, in which it installs and maintains equipment on behalf of a CLEC, within the same intervals as physical collocation, and Qwest installs and maintains the equipment and services at the same level of quality applicable to similar functions for its own equipment. Bumgarner Collocation Decl. ¶¶ 37, 69-70; SGAT § 8.1.1.1, § 8.2.2.1. Qwest makes virtual, as well as physical, collocation available at remote premises. Bumgarner Collocation Decl. ¶ 37, 69; SGAT § 8.2.7.2. Qwest also provides other types of collocation and services to satisfy CLEC needs. Qwest offers ICDF collocation, which allows CLECs not requiring active equipment in the Qwest central office to use the ICDF to access and/or combine Qwest UNEs, and common area splitter collocation, which allows CLECs to place digital subscriber line ("DSL") splitters at Qwest premises in order to provide advanced data services *via* line-sharing. Bumgarner Collocation Decl. ¶¶ 45, 55, 58; SGAT §§ 8.1.1.5, 8.1.1.7, 8.2.5.1, 9.4.2.3. 22/

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completion of the collocation, Qwest must refund the difference between the actual costs it incurred and the non-refundable deposit. Bumgarner Collocation Decl. ¶ 43.

21/ The SGAT provides that the Qwest web site will list and update within the 10-day period all Wire Centers that are full, whether or not there has been a CLEC requested Space Availability Report. SGAT § 8.2.1.13.

22/ Qwest also allows CLEC-to-CLEC connections, either directly between collocation spaces, or through cross-connects at an ICDF. Bumgarner Collocation Decl. ¶ 89; SGAT

Qwest allows CLEC personnel access to collocated equipment and to common areas, such as bathrooms and drinking fountains, twenty-four hours a day, seven days a week. Bumgarner Collocation Decl. ¶ 8; SGAT § 8.2.1.19. Qwest takes reasonable measures to ensure CLEC equipment is afforded physical security equal to that provided for Qwest's equipment. Bumgarner Collocation Decl. ¶ 8; SGAT § 8.2.1.18.1.

Qwest completes CLEC collocation orders within installation intervals permitted by the FCC. Upon receiving a Collocation Application Form from a CLEC, Qwest provides a feasibility study within ten calendar days. Bumgarner Collocation Decl. ¶ 9. If the CLEC's first choice for collocation is not available, the study determines the feasibility of the CLEC's next preferred choice. *Id.* Once the collocation request is found to be feasible, Qwest provides a quotation of charges associated with the request within twenty-five calendar days of the completion of the feasibility study. *Id.* Once the CLEC formally accepts the quote, Qwest begins installation of the collocation arrangement. *Id.* The time interval for completing installation varies depending upon the type of collocation requested, whether the CLEC provides a timely acceptance of the collocation quote, whether (for virtual collocation) the CLEC delivers

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§ 8.2.1.23 *et seq.* In compliance with 47 C.F.R. § 51.321(c), if a CLEC requests a collocation method used by an ILEC other than Qwest currently provided for in the SGAT or a Qwest interconnection agreement, Qwest treats the method as presumptively technically feasible and will provision it under the bona fide request ("BFR") process. Bumgarner Collocation Decl. ¶ 15; SGAT § 8.1.1.

The SGAT has been revised to reflect the approval through the Change Management Process ("CMP") of a Qwest product change notification providing that Qwest will not charge for channel regeneration notwithstanding that the distance between the CLEC's collocation space and Qwest's network facilities is so great as to require regeneration. Bumgarner Collocation Decl. ¶ 42 n.70, ¶ 89 n.182; SGAT §§ 8.2.1.23, 8.3.1.9, 9.1.4, 9.1.10, 9.6.2.3.

collocated equipment in a timely manner, and whether major infrastructure additions or modifications are required. *Id.* 23/

As of May 31, 2003, Qwest had collocation arrangements with 26 CLECs in Arizona. Qwest was providing 475 units of physical collocation and 32 units of virtual collocation in 63 central office buildings. Bumgarner Collocation Decl. ¶ 36. These central offices provide CLECs with access to 86 percent of Qwest's retail access lines within Arizona. *Id.* Additionally, at least 32 of these central office buildings currently house three or more collocators' equipment with access to 60.8 percent of Qwest's retail access lines. *Id.* Qwest also has completed 311 augments to CLECs' collocation arrangements. *Id.* There have been no requests for remote collocation in Arizona. *Id.*

Qwest has met or exceeded the benchmark objectives for each of the collocation performance measures in Arizona. For the four-month period from March through June 2003, Qwest timely completed 100% of collocation feasibility studies requested by CLECs. Buhler Decl. ¶¶ 82-83; Att. 5, App. D, Arizona Commercial Performance Results at 47-48 (CP-3, CP-4). This commercial performance surpasses the 10-day and 90% benchmarks under the feasibility study PIDs. *See* Buhler Decl. ¶ 81-83. Qwest's collocation installation performance likewise

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23/ The Arizona Commission found that the FCC's *Collocation Waiver Order* established interim standards that require timely forecasts from CLECs as a condition for provisioning collocation in a 90-day time fame and that such interim standards allow for longer (150 day) intervals for unforecasted collocation applications not requiring major infrastructure modifications, and even longer intervals when major infrastructure modifications are required. Bumgarner Collocation Decl. ¶ 40. Thus, the Arizona Commission found that Qwest's SGAT provisioning intervals are within the FCC's interim intervals and are reasonable. *Id.* Nevertheless, the Arizona Commission believes that, even if a CLEC request was not forecasted, Qwest should provide the collocation within 90 days when the space is available and no special conditioning is required. *Id.* Qwest revised its SGAT accordingly. SGAT §§ 8.4.2.4.3, 8.4.2.4.4, 8.4.3.4.3, 8.4.3.4.4. The Arizona Commission stated that Qwest should notify it when the FCC makes a final determination on Qwest's request for reconsideration in the FCC proceeding, and at such time the Arizona Commission will determine if further SGAT revisions concerning interval limits are warranted. Bumgarner Collocation Decl. ¶ 40 n.66.

has been excellent during this four-month period. Qwest completed 100% of its installation commitments on time, with average intervals substantially shorter than the 90, 120 and 150-day benchmarks. Buhler Decl. ¶ 83; Att. 5, App. D, Arizona Commercial Performance Results at 46-47 (CP-1, CP-2).

These data, together with the performance data discussed above with respect to Interconnection, show indisputably that Qwest is providing interconnection trunking and collocation to competitors in Arizona on a nondiscriminatory basis. CLECs in Arizona therefore have, and will continue to have, access to the fundamental prerequisite of local exchange competition – the ability to send their customers' calls to, and receive calls from, customers of Qwest and other carriers. Consequently, the Commission should find Qwest has satisfied the requirements of Checklist Item 1 in Arizona.

2. Checklist Item 2: Access to Network Elements

Qwest provides "nondiscriminatory access to network elements" on an unbundled basis, and in a timely, nondiscriminatory manner, pursuant to Sections 271(c)(2)(B)(ii) and 251(c)(3) of the Act and the FCC's rules and policies. 47 U.S.C. §§ 271(c)(2)(B)(ii), 251(c)(3). Qwest gives CLECs access to network elements at any technically feasible point within its network. *See generally* Declaration of Lori A. Simpson and Karen A. Stewart, Access to Unbundled Network Elements ("Simpson/Stewart UNEs Declaration"), Att. 5, App. A. Through negotiated, state-approved interconnection agreements and pursuant to Section 9 of its SGAT, Qwest has a legally enforceable obligation to provide each of the UNEs identified in the FCC's rules and orders. 47 C.F.R. § 51.319; *UNE Remand Order*, 15 FCC Rcd at 3704 ¶ 15; *Local Competition First Report and Order*, 11 FCC Rcd at 15683 ¶ 366; *Line Sharing Order*, 14 FCC Rcd at 20914-15, ¶¶ 4-5; SGAT § 9.

Qwest recognizes that in its Triennial UNE Review proceeding, the Commission has modified its requirements with respect to some unbundled network elements. To date, Qwest has made no changes to any of its policies and practices as a result of the Commission's decision and is continuing to provide UNEs in accordance with currently applicable requirements. Now that the Commission has issued its order in the Triennial Review proceeding, Qwest is reviewing its UNE policies and practices and will continue to ensure that they are consistent with applicable federal law.

Current FCC rules require ILECs to provide the following network elements on an unbundled basis: local loops, subloops, network interface devices ("NIDs"), local and tandem switching capability, dedicated and shared transport, dark fiber, signaling and call-related databases, OSS, and the high-frequency portion of the loop. 47 C.F.R. § 51.319. Qwest provides CLECs access to all the features, functions and capabilities of the specified UNEs in a manner that allows CLECs to provide any telecommunications service any such network element is capable of providing. 24/ This list is not static or exclusive; pursuant to changes in FCC Rules, state regulations or the BFR process, CLECs may identify and request that Qwest furnish additional or modified UNEs to the extent required under Section 251(c)(3) of the Act and other applicable law. SGAT § 9.1.1.

The quality of, and access to, an unbundled network element that Qwest provides is equal among all carriers requesting access to that element. Qwest provides access to UNEs in substantially the same time and manner as it provides access to itself, or, if Qwest does not

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24/ Certain of the enumerated items are addressed elsewhere in this brief. *See* Section III(B)(4)(a) (unbundled loops); Section III(B)(4)(b) and (c) (subloops and NIDs); Section III(B)(4)(d) (line sharing and line splitting); Section III(B)(5) (transport); Section III(B)(6) (switching); Section III(B)(10) (signaling and call-related databases).

provide access to itself, in a manner that provides the CLEC with a meaningful opportunity to compete. Simpson/Stewart UNEs Decl. ¶ 15.

If a CLEC orders a UNE and compatible facilities (facilities that satisfy the NC/NCI codes of the requested UNE) are available, Qwest will complete incremental facility work (*i.e.*, conditioning, place a drop, add a network interface device, card existing subscriber loop carrier systems at the central office and remote terminal, add field cross jumpers, or add central office tie pairs) to complete facilities to the CLEC's end-user customer premises. If compatible facilities are not available, Qwest will build facilities dedicated to an end user for a CLEC if Qwest would be legally obligated to build such facilities as a provider of last resort ("POLR") for its retail end users or under its obligation as an eligible telecommunications carrier ("ETC") to provide basic local exchange service. Also, Qwest will add CLEC requests to current facility builds and notify the CLEC of the ready-for-service date for its requested UNEs. Qwest will also notify CLECs of major outside plant facility builds through the ICONN database. *Id.* ¶ 18.

Furthermore, Qwest does not immediately cancel a CLEC's order if no compatible facilities are immediately available. Qwest will hold the CLEC's order if the request falls within Qwest's POLR or ETC obligations, will hold the order while it explores incremental facility work to make a UNE available, and will hold the order if the CLEC's UNE request would be covered by a pending construction job. *Id.* ¶ 19.

In addition, after Qwest has reviewed the options listed above, Qwest will hold the CLEC's order for 30 business days to determine if facilities become available as a result of normal "churn" in the network. If such facilities become available, they are assigned to pending orders on a first-come, first-served basis. The CLEC must approve the activity prior to installation of the CLEC order. If, after 30 business days, the requested UNE remains

unavailable, Qwest will cancel the CLEC's order. At any time the CLEC still may request that Qwest construct the UNE under the special construction provisions of the SGAT, § 9.19, and Qwest will do so upon the CLEC's acceptance of the special construction quote. *Id.* ¶ 21.

Currently, if a CLEC's order does not fall within one of the criteria in § 9.1.2 of the SGAT, discussed above, the CLEC may request that Qwest construct facilities for it under the § 9.19 special construction provisions of the SGAT. Based upon CLEC input, Qwest has outlined this process, called the CLEC Requested UNE Construction ("CRUNEC") process, in Qwest's Wholesale Product Catalog ("PCAT"). *Id.*

In a petition for enforcement filed in WC Docket No. 02-314, CLECs recently raised concerns about Qwest's construction policies as they apply to DS1 loops; 25/ CLECs have raised the same concerns in Arizona. In response, Qwest has agreed to provision DS1 loops to CLECs where existing DS0 facilities can be used to construct new DS1 facilities. This policy will remain in effect until rates for the construction of DS1 loops from existing DS0 facilities can be developed. Any remaining CLEC concerns relating to DS1 loops will be addressed in separate proceedings at the Commission and in the states. *Id.* ¶ 22.

a) UNE Combinations

As required by the Act, Qwest provides UNEs in a manner that allows requesting CLECs to combine elements in order to provide telecommunications services. A CLEC may combine network elements with other elements obtained from Qwest or with elements provided by the CLEC itself, provided that such a combination is technically feasible and does not impair the ability of other carriers to obtain access to other UNEs or to interconnect with Qwest's network. Simpson/Stewart UNEs Decl. ¶ 23. Qwest provides access to UNE combinations

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25/ *Petition for Enforcement Pursuant to Section 271(d)(6) of the Act*, WC Docket No. 02-314 (filed July 29, 2003).

whether they are UNEs that Qwest ordinarily combines for itself, UNEs Qwest does not ordinarily combine, or combinations of Qwest UNEs and CLEC UNEs. SGAT §§ 9.23.1.4, 9.23.1.5, 9.23.1.6; *see also New York 271 Order*, 15 FCC Rcd at 4077-78 ¶ 230. CLECs can combine UNEs in any technically feasible manner. Qwest offers CLECs a variety of methods by which CLECs can combine UNEs, such as physical, virtual, and cageless collocation. Simpson/Stewart UNEs Decl. ¶ 32. The only restrictions Qwest places on UNE combinations are those permitted under Commission rules. *Qwest 9-State Order*, 17 FCC Rcd at 26406 ¶ 171.

Qwest offers two main standard UNE combinations: the UNE-Platform, or "UNE-P," and the Enhanced Extended Loop, or "EEL." UNE-P consists of a loop, switch port, shared transport, and access to vertical features and is offered in the following forms: (1) Plain Old Telephone Service (POTS) for residential or business customers; (2) either basic rate or primary rate ISDN; (3) Digital Switched Service (DSS); (4) PBX Trunks; (5) Centrex; and (6) public access lines. All the vertical switch features that are technically feasible for POTS, ISDN, DSS, Centrex and PBX services are available with that type of UNE-P. Qwest also makes its DSL service available for CLECs to purchase in conjunction with compatible UNE-P combinations, including UNE-P-POTS, UNE-P-Centrex and UNE-P-PBX. Simpson/Stewart UNEs Decl. ¶¶ 39-43.

In August 2003, Qwest filed a revised SGAT that incorporated several recommendations by ACC Staff relating to UNE-P. Qwest declined to implement a few of Staff's recommended changes, and has explained to the Arizona Commission that Qwest's existing practices and policies sufficiently address the concerns expressed by ACC Staff. These issues are described in detail in the Access to UNEs Declaration of Lori A. Simpson and Karen A. Stewart. Simpson/Stewart UNEs Decl. ¶¶ 65-70.

The EEL is a combination of loop and dedicated interoffice transport and may also include multiplexing or concentration capabilities. It enables CLECs to access unbundled loops for end users without having to collocate in the central office in which those loops terminate. Qwest offers EEL facilities to CLECs that certify they will be used to provide significant local exchange traffic to a particular end user under one of the three options identified by the FCC in the *EEL Supplemental Order Clarification*. 15 FCC Rcd at 9598-9600 ¶ 22; Simpson/Stewart UNEs Decl. ¶¶ 49-56. Qwest also offers a third standard UNE combination, the loop-MUX combination, or "LMC."

(1) Qwest Is Satisfying Significant CLEC Demand for UNE-P

Qwest is successfully and promptly installing and repairing UNE-P for CLECs in commercial volumes. As of May 31, 2003, Qwest had in service 62,713 UNE-P combinations for 12 CLECs in Arizona. 26/

(2) Qwest Is Provisioning and Repairing UNE-P in Accordance with Negotiated Performance Metrics

Qwest measures the actual commercial performance of UNE-P-POTS, UNE-P-Centrex-21, and UNE-P-Centrex. These performance data show that Qwest has successfully and promptly installed and repaired UNE-P for CLECs in Arizona.

The major metrics under which Qwest reports UNE-P performance are OP-3 (installation commitments met), OP-4 (average installation interval), OP-5 (installation quality), OP-6 (average delay beyond due date), MR-3 (out of service cleared within 24 hours), MR-4 (all troubles cleared within 48 hours), MR-6 (average repair interval), MR-7 (repeat

26/ This figure includes 57,043 "traditional" UNE-P combinations and 5,670 UNE Star combinations.

trouble rate), MR-8 (overall trouble rate), and MR-9 (repair appointments met). The performance standard under each metric is parity with a retail analogue. Buhler Decl. ¶ 161.

Installation of UNE-P-POTS. Between March and June 2003, Qwest achieved parity between retail and wholesale performance in every month under every PID measuring UNE-P-POTS provisioning in Arizona. Qwest met its installation commitments to CLECs during that time for orders requiring the dispatch of a technician in parity with Qwest retail in every month. For orders requiring no dispatch, Qwest met nearly 100% of its commitments, achieving parity every month. Qwest's performance under the PID that measures installation quality was at parity in every month. As for installation intervals, Qwest wholesale was also at parity with retail performance. Order delays due to non-facility reasons were in parity every month, as were delays due to facility reasons. In short, out of a total of 36 installation performance measurements, Qwest achieved parity in all cases. *Id.* ¶ 162.

Repair of UNE-P-POTS. Not only is Qwest provisioning UNE-P-POTS at a high level of quality in Arizona, Qwest also is rapidly repairing these lines when necessary. Between March and June 2003, the overall CLEC trouble rate for UNE-P-POTS was never higher than 0.88% and was at parity with Qwest's retail performance in every month. When troubles do occur, Qwest resolves them efficiently and at parity with Qwest's performance for its retail customers. Qwest's repair service was at parity for out-of-service cleared within 24 hours for both dispatch and non-dispatch reports in all four months. The four-month average result was above 95% for dispatch reports and above 98% for non-dispatch reports. Qwest performed nearly perfectly in clearing all trouble reports within 48 hours better than 99% of the time and in parity 100% of the time in the last four months. The mean time to restore was shorter for CLECs than for retail in each of the past four months for both dispatch and non-dispatch trouble reports. Qwest achieved parity under the repeat trouble rate measurement in all four months both for

dispatch reports and for non-dispatch reports. Repair appointments met fell short of parity in a single month for dispatch reports, but on average during the last four months Qwest met over 93% of its appointments. In April 2003, the only month with a parity miss for repair appointments met, Qwest missed 27 appointments for wholesale compared to 317 missed appointments for retail. For non-dispatch reports Qwest achieved parity in every month, with nearly 99% of appointments met. In the context of an excellent average trouble rate of less than 1.2% that is always at parity, and noteworthy performance for troubles cleared within 24 and 48 hours, Qwest's overall repair of UNE-P-POTS in Arizona is excellent. Out of a total of 44 measurements for UNE-P-POTS maintenance and repair in Arizona, Qwest achieved parity in all but one case. *Id.* ¶ 163.

Installation of UNE-P-Centrex 21. For the period from March through June 2003, Qwest provisioned UNE-P Centrex 21 lines in Arizona at parity in each month for almost every key measure of installation performance. A single miss in installation quality results occurred in May 2003. In that month there were only seven installations, four of which reported a problem within the first 30 days. However, looking at the OP-5* results for that month, two of the four were reports closed with no trouble found, with no subsequent reports within the next 30 days. When these two reports are removed, the May results were also in parity. Additionally, the four-month average wholesale performance for OP-5 was only 0.38% less than retail. *Id.* ¶ 164.

Repair of UNE-P-Centrex-21. Trouble rates for UNE-P-Centrex 21 were excellent. In all four months, trouble rates were 1.10% or less. Qwest met parity in all four months. Qwest's performance in maintaining UNE-P Centrex 21 is superior, restoring out-of-service troubles within 24 hours, and all troubles within 48 hours almost 100% of the time and in parity all four months. Mean time to restore was also in parity in all four months for both

dispatch and non-dispatch reports. For the repair repeat rate, with and without dispatches, all four months were in parity. *Id.* ¶ 165.

Installation and Repair of UNE-P-Centrex. To date, no CLECs have ordered UNE-P Centrex in Arizona. Consequently there are no performance results to report for installation or repair. However, as has been validated in Qwest's previously approved applications in states where CLECs do purchase UNE-P Centrex, Qwest has demonstrated its ability to offer this service in parity with its retail service. *Id.* ¶¶ 166-67.

(3) EELs

As of May 31, 2003, Qwest had in service 359 EELs and Loop-MUX Combinations for five CLECs in Arizona; the volumes are low but steady. Under OP-3, Qwest must meet at least 90% of its installation commitments to CLECs. For diagnostic purposes only, EEL performance is also tracked under the following metrics: OP-4 (mean installation interval), OP-5 (installation quality), OP-6 (average delay for late orders), MR-5 (all troubles cleared within four hours), MR-6 (mean repair interval), MR-7 (repeat trouble rate), and MR-8 (overall trouble rate).

Qwest has a four-month average for installation commitments met of 89.32%, barely missing the 90% benchmark established by the TAG. Qwest met the benchmark in April with 94.23% of commitments met. In May, results at 89.80% were barely under the benchmark, while performance for March at 87.8% and June at 85.7% approached the benchmark for commitments met. A total of 206 EELs have been ordered in the last four months. In March, Qwest met its commitment 43 out of 49 times. In April, Qwest met the benchmark, installing 49 of 52 EELs ordered on time. In May there were only five orders with missed commitments, and only eight missed in June. When installation commitments were missed generally it was due to facility problems identified on or near the due date that could not be resolved in time to meet

the commitment. However, the results for delayed days for facility reasons show that Qwest resolved these problems on average in just 2.78 days. Though no standard has been established for installation quality, Qwest's performance has shown a gradual improvement during the period from 82% in March up to 94.4% in June. Buhler Decl. ¶ 169.

3. Checklist Item 3: Access to Poles, Ducts, Conduits, and Rights-of-Way

Section 271(c)(2)(B)(iii) of the Act requires a Section 271 applicant to comply with Section 224 of the Act, which requires that ILECs "provide . . . telecommunications carrier[s] with nondiscriminatory access to any pole, duct, conduit, or right-of-way [the ILEC] own[s] or control[s]." 47 U.S.C. §§ 271(c)(2)(B)(iii), 224(f)(1), (2). *See also Qwest 9-State Order*, App. K ¶ 47; *Texas 271 Order*, 15 FCC Rcd at 18478 ¶ 243 n.688 (*citing Local Competition First Report and Order*, 11 FCC Rcd at 16080-81 ¶¶ 1175-77). An ILEC may deny access only on a nondiscriminatory basis, and only due to "insufficient capacity" or for "reasons of safety, reliability and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2). *See also Qwest 9-State Order*, App. K ¶ 47; *Texas 271 Order*, 15 FCC Rcd at 18478 ¶ 243 n.688 (*citing Local Competition First Report and Order*, 11 FCC Rcd at 16080-81 ¶¶ 1175-77). The Arizona Commission has found that Qwest satisfies Checklist Item 3. Declaration of Thomas R. Freeberg, Access to Poles, Ducts, Conduits and Rights-of-Way ("Freeberg Access to Poles Decl."), Att. 5, App. A, ¶¶ 44-48. Moreover, this Commission has previously determined that Qwest meets the requirements of Checklist Item 3. *Qwest 9-State Order*, 17 FCC Rcd at 26514-15 ¶ 379; *Qwest 3-State Order* ¶ 111; *Qwest Minnesota Order* ¶ 59.

The Act establishes a methodology by which the maximum just and reasonable rates ILECs may charge can be calculated. The FCC's rules mirror these requirements (*see* 47 C.F.R. § 1.1403(a) (access); §§ 1.1409(e), 1.1417-1.1418 (charges)), and further require

ILECs to (1) grant access (or issue a denial in writing stating the reasons therefor) within 45 days of a request (*id.*, § 1.1403(b)); (2) provide at least 60 days written notice prior to any increase in pole attachment rates, demand for removal of attachments, or modification of facilities other than for routine maintenance or to respond to emergencies (*id.* § 1.1403(c)); and (3) charge non-recurring facilities modification fees necessitated by pole attachments at cost, on a cost-causer-pays basis. *Local Competition First Report and Order*, 11 FCC Rcd at 16096 ¶ 1211.

Qwest makes all of its poles, ducts, conduits and rights-of-way available to competitors in Arizona pursuant to Section 10.8 of its Arizona SGAT, through individually-negotiated, state-approved interconnection agreements, and under a stand-alone agreement developed prior to enactment of the 1996 Act. Freeberg Access to Poles Decl ¶¶ 14-17. The stand-alone agreement is available to any CLEC that seeks access to Qwest's poles, ducts, conduits or rights-of-way but does not wish to negotiate or opt into a comprehensive interconnection agreement with Qwest. *See id.* ¶¶ 16-17.

Qwest takes several steps to ensure that CLECs have access in a nondiscriminatory manner to Qwest's poles, ducts, conduits and rights-of-way. Those steps include (1) providing access to records; (2) maintaining an explicit and easy-to-follow ordering and application process; (3) assisting prospective attachers throughout the ordering and application process and/or in planning attachments; (4) allocating space to itself and competitors on a nondiscriminatory basis; and (5) promptly responding to requests for access. *Id.* ¶ 19.

Qwest determines the availability of space in a non-discriminatory manner consistent with Section 224 of the Act and the FCC's orders and rules thereunder. *Id.* ¶ 35; SGAT § 10.8.2.6. Specifically, Qwest assigns space on a first-come, first-served basis. Qwest records its own designations for space in the same databases used to record CLEC space designations. *Id.* In accordance with FCC rules, Qwest does not reserve space for itself on or in

its facilities. *Id.*; *Local Competition First Report and Order* ¶ 1170. In short, Qwest does not favor itself over other carriers in provisioning access to poles, ducts, conduits, or rights-of-way. Freeberg Access to Poles Decl. ¶ 35; *see* SGAT § 10.8.2.

Qwest completes make-ready and modification work for competitors in materially the same manner that it completes such work for itself. Qwest ensures that the costs of modifications are allocated only to the parties that benefit from them. Qwest, however, removes old, inactive cables at no charge to CLECs. Freeberg Access to Poles Decl. ¶ 39.

Qwest applies rates consistent with the Commission's formulas. As of February 8 and July 30, 2001, Qwest recognized new rates, consistent with the FCC formulas adopted pursuant to Section 224(e) of the Act, for attachers that provide telecommunications service. In accordance with FCC rules, the rate for telecommunications attachers is being phased in through equal 20 percent increments over a five-year period. *Id.* ¶ 41. Qwest provides at least 60 days written notice of rate changes and facilities modifications or alterations. *Id.* Qwest's charges for pole and conduit inquiries, field verifications, make-ready work and facilities modifications are based on the actual cost of that work. *Id.* ¶ 42.

Qwest makes all of its poles, ducts, conduits and rights-of-way available to competitors in Arizona. As of May 31, 2003, three CLECs occupied 14,883 feet of Qwest duct and five CLECs had attached to 134 Qwest poles in the state. *Id.* ¶ 49. These quantities do not include carriers who have cable television provider status, but who may also be providing local telephone service. In the aggregate, space has been made available in over one million feet of Qwest conduit and on over 72,000 Qwest poles to third-party carriers in Arizona. *Id.*

The FCC has an extensive pole attachment complaint process if CLECs are dissatisfied with Qwest's performance. *See* 47 U.S.C. §§ 1.1401 *et seq.* Qwest has not been the subject of any FCC pole attachment complaints.

4. Checklist Item 4: Loops

a) Unbundled Loops

Section 271(c)(2)(B)(iv) of the Act requires that a BOC wishing to offer in-region interLATA service provide "local loop transmission from the central office to the customer's premises, unbundled from local switching or other services." 27/ The loop unbundling requirement applies to various types of loops, including 2-and 4-wire analog voice-grade loops, as well as 2- and 4-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals. *See Local Competition First Report and Order*, 11 FCC Rcd at 15691 ¶ 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73 ¶¶ 166-67.

Qwest is providing commercial volumes of unbundled loops and is doing so in a high-quality manner that satisfies all established performance metrics. In Arizona, as the Commission found in the *Qwest 271 Orders* with respect to all the other states in the Qwest region, Qwest provides unbundled loops to CLECs in a timely, nondiscriminatory manner, consistent with the requirements of the Act and the FCC's rules and orders. 47 U.S.C. § 271(c)(2)(B)(iv); *see also Qwest Minnesota Order*, App. C ¶¶ 48-49; *UNE Remand Order*, 15 FCC Rcd at 3772-78 ¶¶ 166-79; 47 C.F.R. § 51.319(a)(1). Through its SGAT and negotiated, state-approved interconnection agreements, Qwest makes available to CLECs all types of loops identified by the FCC as part of the loop unbundling requirement, including voice-grade analog

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27/ 47 U.S.C. § 252(d)(3); *see also Qwest Minnesota Order*, App. C ¶ 48. In the *UNE Remand Order*, the FCC defined the local loop as "a transmission facility between a distribution frame (or its equivalent) in the incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC. The local loop network element includes . . . dark fiber, attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and line conditioning." *UNE Remand Order*, 15 FCC Rcd at 3772-78 ¶¶ 166-79; *see also* 47 C.F.R. § 51.319(a)(1).

loops, xDSL-capable loops, and high-capacity loops. Declaration of William M. Campbell, Unbundled Loops ("Campbell Decl."), Att. 5, App. A, ¶¶ 11-24; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15691 ¶ 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73 ¶¶ 166-67. Qwest performs hot cuts for CLECs and provides CLECs with access to unbundled loops provisioned using integrated digital loop carrier ("IDLC") technology where technically feasible. Campbell Decl. ¶¶ 38-40, 52-53. In addition, Qwest conditions loops where necessary to allow CLECs to provide digital services. *Id.* ¶¶ 30-34. Qwest also gives CLECs nondiscriminatory access to pre-order loop make-up information. OSS Decl. at Section III(A)(2)(f). Qwest provides line sharing and line splitting, as well as subloops and NIDs. *See generally* Declaration of Karen A. Stewart, Line Sharing/Line Splitting ("Stewart Line Sharing Decl.") and Declaration of Karen A. Stewart, Network Interface Devices and Subloops ("Stewart NIDs/Subloops Decl."), both located at Att. 5, App. A.

As of May 31, 2003, Qwest had in service 37,719 unbundled loops in Arizona. (These figures represent stand-alone loops only, not those provided as part of a UNE combination.) Specifically, Qwest had in service 30,253 unbundled voice-grade analog loops, 5,578 xDSL-capable loops, and 1,888 high-capacity loops. The volume of unbundled loops in service demonstrates that Qwest is provisioning loops to CLECs in Arizona in a nondiscriminatory fashion. Campbell Decl. ¶ 59.

The following section discusses Qwest's commercial performance with respect to installation and repair of unbundled loops in Arizona for the period March through June 2003. The discussion is arranged according to the three main categories of loops: analog, xDSL-capable, and high-capacity loops. These performance data show that Qwest has successfully and promptly installed and repaired all types of unbundled loops for CLECs.

Analog Loops – Installation. Most of the loops Qwest provisions to CLECs in Arizona are analog loops, and Qwest consistently provisions them in a timely and nondiscriminatory fashion. In every month between March and June 2003, the average installation interval for analog loops was shorter than the negotiated benchmark. Qwest also surpassed the negotiated benchmark in every month for installation commitments met. As for installation service quality, Qwest achieved parity between retail and wholesale service in all four months, with over 95% installed without a trouble report within 30 days of installation. Overall, Qwest's performance for analog loop installations has been excellent. Qwest recorded disparities in only two of four months under the measurement for delayed days for facility reasons, where the volumes averaged just nine orders per month. For all other key installation measurements, Qwest met the established standard for all data points for analog loops. Buhler Decl. ¶ 173.

Hot Cuts. In addition to new loops, Qwest provisions loops to CLECs *via* hot cuts. Most loops provisioned *via* hot cuts are analog loops and are included in the performance measurements discussed in the preceding paragraph for installation commitments met, installation interval, and installation service quality. Qwest's excellent performance on analog loops takes into account both new loops and hot cut loops. In addition, Qwest tracks the time it takes to complete hot cuts, which represents the amount of time a customer is out-of-service during the cut. Qwest has done a remarkable job of minimizing this out-of-service time in Arizona. Between March and June 2003, Qwest averaged three and a half minutes to perform the lift and lay procedure. *Id.* ¶ 174.

Qwest also measures the on-time completion rate for coordinated installations of unbundled loops, about 90% of which are conversions of existing customers to CLEC service. Under this measurement, between March and June 2003, Qwest performed no less than 98.5% of

coordinated installations on time for analog loops and at least 97.6% on time in every month for all other loops, surpassing the negotiated performance benchmark in both categories each month. *Id.* ¶ 175.

Analog Loops – Maintenance and Repair. Qwest's performance with respect to maintenance and repair of analog loops has been outstanding in Arizona. Between March and June 2003, Qwest did not record a single performance disparity under any repair measurement. Of particular note is the excellent trouble rate, which has never been higher than 1.2% and has averaged about 1% over the four-month period. Under this and every other repair measurement for analog loops, Qwest's performance has been perfect in meeting established standards. *Id.* ¶ 176.

xDSL-Capable Loops – Installation. Qwest's xDSL-capable loop offerings include 2-wire non-loaded, 4-wire non-loaded, ISDN-capable, and ADSL-qualified loops. The majority of xDSL-capable loops ordered by CLECs are 2-wire non-loaded loops. In this category of loops, which is measured by the same performance metrics described in the analog loop performance section above, Qwest's parity performance from March through June 2003 has been perfect in Arizona. Qwest's performance for other xDSL-capable loops, for which CLEC volumes were lower, has also been perfect over the same four-month period, where there are data to report. *Id.* ¶ 177.

xDSL-Capable Loops – Maintenance and Repair. Qwest's maintenance and repair of xDSL-capable loops was also strong. In the largest category of xDSL loops – 2-wire non-loaded loops – Qwest achieved parity in every month between March and June 2003 under the PIDs that measure out of service cleared within 24 hours, all troubles cleared within 48 hours, repair repeat report rate, and trouble rate. Qwest recorded only one disparity in March 2003 for 2-wire non-loaded loops under the PID for mean time to restore. In short, under

all of the PIDs that measure repair performance for the most common type of xDSL-capable loop, Qwest recorded only one disparity between March and June. *Id.* ¶ 178.

As for other xDSL-capable loops, Qwest's performance was nearly perfect. Qwest achieved parity in all four months under the PIDs that measure out of service clearance, trouble clearance, and the repair repeat report rate measurement. The only performance disparities Qwest recorded were under two measurements for ISDN-capable loops. Under each of the measurements for mean time to restore and trouble rate, Qwest missed the parity standard in only one of four months. *Id.* ¶ 179.

Conditioned Loops. Qwest must sometimes condition a loop to make it xDSL capable. Qwest measures installation commitments met and installation intervals separately for conditioned loops. Between March and June 2003, Qwest's performance with respect to conditioned loop intervals has been excellent. Qwest has completed the installation, including conditioning, in well under the negotiated benchmark. For commitments met, Qwest missed the 90% benchmark in each month. Even so, the percentage of commitments met has averaged more than 83% over the four-month period. An analysis of the orders with missed commitments revealed that all six of the missed orders in May, and 10 of the 15 missed orders in June were, in fact, not missed commitments. Even though Qwest actually met the scheduled due date, either human error in entering a "miss code" or a reporting-system issue caused these orders to be erroneously tallied in the reporting process as missed commitments. Taking away the effect of these errors, Qwest would have met 100% and 92% of installation commitments for May and June respectively and averaged more than 90% between March and June. *Id.* ¶ 180.

High-Capacity Loops – Installation and Repair. Qwest's high-capacity unbundled loop offerings include DS1, DS3 and higher, and dark fiber loops. High-capacity loops represent approximately 5.2% of the total number of loops Qwest has in service for CLECs

in Arizona. Performance metrics indicate that Qwest's provisioning of these loops has been good. While Qwest recorded three performance disparities under the installation service quality measurement for DS1-capable loops, the company achieved parity on every other installation measurement for high-capacity loops where volumes were recorded. *Id.* ¶ 181.

Qwest's maintenance and repair performance also has been good. For DS1-capable loops, Qwest achieved parity in every month under the PID that measures repeat trouble report rate. Qwest also achieved parity in three of four months under the PID that measures mean time to restore. Qwest recorded two disparities under the measurement for all trouble cleared within four hours. The trouble rate for DS1-capable loops indicated disparity in four of four months. Qwest has implemented several initiatives to improve performance for DS1-capable loops. *Id.* ¶ 182.

b) Subloops

Qwest provides nondiscriminatory access to the subloop network element, defined by Commission rules as "any portion of the loop that is technically feasible to access at terminals in the [ILEC's] outside plant, including inside wire." 47 C.F.R. § 51.319(a)(2). An accessible terminal is "any point on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within." *Id.* Such points "may include, but are not limited to, the pole or pedestal, the network interface device, the minimum point of entry, the single point of interconnection, the main distribution frame, the remote terminal, and the feeder/distribution interface." *Id.*

For subloop unbundling purposes, Qwest divides accessible terminals into two categories. "MTE terminals" are those within a building in a multiple tenant environment ("MTE") or accessible terminals physically attached to a building in an MTE. "Detached terminals" are all other accessible terminals. *See* Declaration of Karen A. Stewart, Unbundled

Network Interface Devices and Subloops ("Stewart NID/Subloop Decl."), Att. 5, App. A, ¶ 28. Different terms and conditions apply for MTE terminals than for detached terminals; all terms and conditions are in accordance with the Commission's requirements for subloop unbundling. Stewart NID/Subloop Decl. ¶¶ 22-48.

As of May 31, 2003, Qwest had in service 105 unbundled subloops in Colorado and Washington and none in any other state in its region, including Arizona. The Commission has previously concluded that Qwest provides unbundled local loops, inclusive of subloops where there has been a demand for them, in accordance with the requirements of Section 271. *See Qwest 9-State Order*, 17 FCC Rcd at 26484-86 ¶¶348-50.

c) Network Interface Devices (NIDs)

Qwest provides nondiscriminatory access to the NID, defined by the FCC as "any means of interconnection of end-user customer premises wiring to an ILEC's distribution plant, such as a cross connect device used for that purpose." 47 C.F.R. § 51.319(b). Qwest allows requesting CLECs to connect their own loop facilities to on-premises wiring through Qwest's NID or at any other technically feasible point. Stewart NID/Subloop Decl. ¶¶ 9-14.

Through its SGAT and state-approved interconnection agreements, Qwest has undertaken a contractual obligation to provide unbundled NID access to CLECs. Qwest has received no orders for stand-alone unbundled NIDs in any state in its region. In Arizona, Qwest has provisioned NIDs only in conjunction with unbundled loops. Given the lack of demand, no performance reporting requirements have been established for NIDs. However, should CLECs request stand-alone NIDs at any time in the future, Qwest is prepared to provision them. *Id.* ¶ 21.

d) Line Sharing and Line Splitting

Qwest provides CLECs with access to the high frequency portion of the unbundled loop ("HFPL"), commonly known as line sharing, in accordance with Commission regulations. *See generally* Stewart Line Sharing Decl.; 47 C.F.R. § 51.319(h)(l)-(4); *Qwest Minnesota Order* at App. C ¶¶ 50-52; *Line Sharing Order*, 14 FCC Rcd 20912; *Line Sharing Reconsideration Order*, 16 FCC Rcd 2101. In a line sharing arrangement, the POTS service is provided by Qwest while the data service is provided by the CLEC. Qwest makes available to CLECs in Arizona line sharing, line splitting, and loop splitting (similar to line splitting, in cases where the CLEC purchases unbundled loops rather than UNE-P). Stewart Line Sharing Decl. ¶¶ 6-7, 43-51, 52-54; *see also* SGAT §§ 9.4 (line sharing), 9.21 (line splitting), 9.24 (loop splitting). In Arizona, as this Commission previously has found in the *Qwest 271 Orders* with respect to all the other states in the Qwest region, Qwest provides line sharing in a timely and nondiscriminatory manner and in a manner that provides CLECs with a meaningful opportunity to compete.

Qwest performs quality assurance testing on two aspects of line shared loops during provisioning. First, Qwest assures in its line shared loop provisioning process that there are no load coils on the loop by performing a load coil test prior to completing the service order. Next, at a minimum, central office wiring is tested to assure electrical continuity between the physical demarcation with the CLEC and the loop using an LSVT test set. *Id.* ¶ 34.

Additionally, in response to CLEC requests, Qwest has developed a router testing option that can be requested in lieu of the LSVT test, as part of its line shared loop provisioning process. 28/ Upon request, Qwest will perform for CLECs the same physical layer continuity

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28/ Qwest made this commitment even though the Commission does not require ILECs to provide router testing. *See Qwest 9-State Order* ¶ 360.